IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH DECEMBER 2007 / 27TH AGRAHAYANA 1929

Bail Appl..No. 7966 of 2007()

ST.1326/2005 of J.M.F.C., PATTAMBI
CRIME NO.278/2000 OF PATTAMBI POLICE STATION

.....

PETITIONER : 2ND ACCUSED

HAMSA, AGED 37 YEARS,
S/O.AHAMMEDKUTTY,
MACHINGATHODI KIZHAKKETHIL,
KADUMUNDA POST,
PATTAMBI-679 303.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENTS:COMPLAINANT

STATE OF KERALA, REP. BY
THE PUBLIC PROSECUTOR ,
HIGH COURT OF KERALA, ERNAKULAM
REPRESENTING SUB INSPECTOR OF POLICE,
PATTAMBI POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/12/2007 ALONG WITH B.A.NO.7980 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.NoS.7966 & 7980 of 2007

Dated this the 18th day of December, 2007

ORDER

The common petitioner in these 2 petitions has come to this Court seeking anticipatory bail in 2 different cases both pending before the same court wherein he faces indictment for offences which are all bailable. Final reports have been submitted in these 2 cases after completion of investigation. Cognizance was taken by the learned Magistrate. Both crimes were registered in the year 2000. Cognizance was taken in 2005 and 2006. The petitioner was not available for trial. The co-accused who were available faced trial. They were found not guilty and acquitted. The case against the petitioner has been split up. Coercive processes have been issued against the petitioner by the learned Magistrate. The petitioner finds such processes chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate and apply for bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions

under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. These bail applications are, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-